IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No.:	10/565,519	Confirmation No. 2958
Applicants:	Benedikt et al.	
Filed:	April 9, 2007	
Title:	HIGH FREQUENCY CIRCUIT ANALYSER	
Art Unit:	2831	
Examiner:	He, Amy	
Docket No.:	107687.00019	

Mail Stop: Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

RESPONSE TO RESTRICTION REQUIREMENT

Dear Sir

In response to the communication from the Examiner dated February 26, 2009, having a deadline for response expiring March 26, 2009, Applicants hereby elect the invention of Species II, claims 1-7 and 10-33, with traverse. While the finding that the inventions are patentably distinct is not traversed, the pending application is an application under 35 U.S.C. 371, which requires PCT Rules 13.1 and 13.2 to be applied. In the Written Opinion of the International Searching Authority, no lack of unity of invention was found, which by itself is instructive that there is no lack of unity of invention.

Furthermore, the restriction of species to different figures fails to focus on the claim language, which is required under PCT Rules 13.1 and 13.2. Unity of invention should be considered in accordance with the PCT International Search and Preliminary Examination Guidelines, per MPEP 1893.03(d). Paragraph 10.3 of those guidelines is instructive:

> 10.03 Lack of unity of invention may be directly evident "a priori," that is, before considering the claims in relation to any prior art, or may only become apparent "a posteriori," that is, after taking the prior art into consideration. For example, independent claims to A + X, A + Y, X + Y can be said to lack unity a priori as there is no subject matter common to all claims. In the case of independent claims to A + X and A + Y, unity of invention is present a priori as A is common to both claims. However, if it can be established that A is known, there is lack of unity a

posteriori, since A (be it a single feature or a group of features) is not a technical feature that defines a contribution over the prior art.

The Examiner has failed to consider the pending claims in imposing the restriction requirement, which reveal upon review that unity of invention exists a priori. Therefore, withdrawal of the restriction requirement is requested for these reasons.

Dated: March 26, 2009

Respectfully submitted,

By: _____
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